



September 20, 1999

Ms. Tracy B. Calabrese
Senior Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR99-2618

Dear Ms. Calabrese:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 127468.

The City of Houston (the "city") received a request for the Office of the Inspector General's investigation into the sexual harassment complaint filed against a named employee. You claim that portions of the responsive investigative file are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and have reviewed the documents at issue.

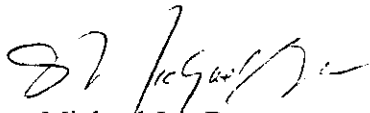
Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by common-law privacy and excepts from disclosure private facts about an individual. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Therefore, information may be withheld from the public when (1) it is highly intimate and embarrassing such that its release would be highly objectionable to a person of ordinary sensibilities, and (2) there is no legitimate public interest in its disclosure. *Id.* at 685; Open Records Decision No. 611 at 1 (1992).

In *Morales v. Ellen*, 840 S.W.2d 519 (Tex. App.--El Paso 1992, writ denied), the court addressed the applicability of the common-law privacy doctrine to files of an investigation of allegations of sexual harassment. The investigation files in *Ellen* contained individual witness statements, an affidavit by the individual accused of the misconduct responding to

the allegations, and conclusions of the board of inquiry that conducted the investigation. *Ellen*, 840 S.W.2d at 525. The court ordered the release of the affidavit of the person under investigation and the conclusions of the board of inquiry, stating that the public's interest was sufficiently served by the disclosure of such documents. *Id.* In concluding, the *Ellen* court held that "the public did not possess a legitimate interest in the identities of the individual witnesses, nor the details of their personal statements beyond what is contained in the documents that have been ordered released." *Id.* Therefore, when there is an adequate summary of the investigation, the summary must be released, but the identities of victims and witnesses, and their detailed statements, must be withheld from disclosure. We have reviewed the submitted information and conclude that the information you have identified as a summary of the sexual harassment allegations and investigation, as redacted by you, satisfies these disclosure requirements and that there is no legitimate public interest in the redacted information or the balance of the subject report. The identified summary must be released in redacted form and the remaining information withheld.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/ch

Ref: ID# 127468

Encl. Submitted documents

cc: Mr. John D. Girardi
2706 Fern Creek
Pearland, Texas 77581
(w/o enclosures)